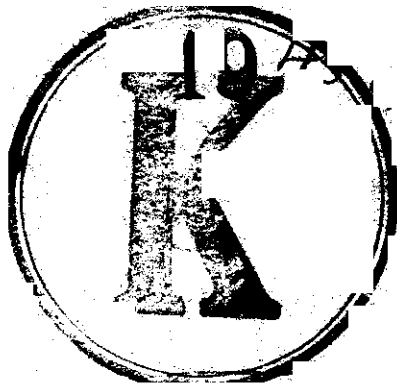




File No. B. Village
Panch/H5

Legal Department

B

BRANCH

Subject:— A bill to amend the Bombay
Village Panchayats Act 1933.

Comm II of 1945

U/
1-5

File No. B. Village Panch/H5

Gen. 194 s.

285-A

Office of the R.L.A.

A revised draft Bill is sent herewith.

2. Clause 2 of the Bill is not in order. It provides that the Police and Revenue Patels shall be ex-officio members besides the elected members of a Village Panchayat.

It would appear from section 6(1), second proviso, as it stood before its deletion by Bom. Act XVIII of 1939 that there may be more than one officiating Revenue Patel in a village and it would appear from section 5(2) of the Bombay Village Police Act, 1867 that the Revenue Patel may not in some cases be appointed the Police Patel. It is therefore necessary to provide that the officiating Revenue Patel or if there are more than one the senior of them shall be a member of the Panchayat and also that the Police Patel or if there are more than one Police Patel in a village (see section 5(3) of the Bombay Village Police Act, 1867), the senior of them shall be a member of the Panchayat. Clause 2(1) of the revised draft provides accordingly. A provision is also made on the lines of sub-section (2) of old section 6 giving power to the Collector to decide as to who is the senior officiating Revenue or Police Patel.

3. A revised Statement is also sent herewith.

4. The subject - matter of the Bill falls under entry 13 in the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935. As none of the provisions of the Bill relates to any concurrent matter, it is not necessary to reserve it for the consideration, the Bill

V.VK. 12/7/56/

5C.

56/14/8

of the Governor-General . Under executive instructions, the Bill requires the previous concurrence of the Governor-General before enactment. (See G.S.'s Circular No. 201(12) dated 18th December 1839).

Id/- P.N.M.
dt/- 2/12/

Remembrancer of Legal Affairs.

U.R. to G.D. No. 8912 , dated the 2nd December 1943.

V.V.K. 12/7/56/

5C.

STATEMENT.

The objects of the Bill are explained in the following notes on clauses.

NOTES ON CLAUSES.

Clause 2(1) and (2).-- It is proposed to amend section 6 of the Bombay Village Panchayats Act, 1933, to provide that revenue and police patels should be ex-officio members of Village panchayats. These patels can do much to advance local institutions in rural areas and it is in the interest of local bodies that they should participate in their administration. In the case of local boards they are permitted to stand for election and become members of the board. The participation of patels in the administration of panchayats is even more essential than in the case of local boards. It is therefore proposed to bring them on the village panchayats as ex-officio members as it is considered undesirable for them to contest elections. Sub-clauses (1) and (2) of clause 2 provide accordingly.

2. Clauses 2(3) and 3.-- Opportunity has been taken to amend sections 6(3) and 7(2) of the Act to dispense with the publication of the names of elected members of village panchayats in the Official Gazette. This is of local interest only and publication at the village chavdi or at the panchayat office as may be prescribed under the Bombay Village Panchayat Election Rules will be sufficient.

3. Clause 4--Clause (j) of section 8 did not implement correctly the intention of the Legislature that inferior village servants should not be treated as servants of the Crown within the meaning of that clause. Since revenue and police patels are now to be ex-officio members of panchayats, clause 4 provides that revenue or police patels or inferior village servants shall not be deemed to be servants of the Crown within the meaning of section 8(j).

4/5. Clause 5.-- Under section 4 as it stood previous to the amendment in 1939, the Collector did exercise certain powers. But in view of the amendment of that section in 1939 these powers no longer survive. Consequently the words and figure "other than the powers under section 4" in sub-section (5) of section 112 are now redundant. Clause 5 deletes them.

v.v.k. 10.8.5

Office of the R.L.A.

A revised draft Bill is sent herewith.

2. The draft Statement at p.193 will not do since it does not state the legal position quite correctly. The Bombay Village Panchayats Act, 1933, as it stood prior to its amendment in 1939 did not also contain any provision empowering any authority to grant exemptions from taxation and no rules could be made by Government providing for exemption from taxation. The alternative draft Statement prepared by U.S., G.D. at pp.195-196 states the legal position correctly and as slightly amended is legally in order.

3. The Subject-matter of the Bill falls under entry No.13 in List II in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act and paragraph (2) of the Proclamation. Under executive instructions the Bill requires the previous concurrence of the Governor-General before enactment.

Id/- 18/2/44.

Remembrancer of Legal Affairs.

L.R. to G.D., No.1330, dated the 18th February 1944.

VVK. 10/8/56.

Office of the R.L.A.

The consolidated draft Bill at pages 57-59 ante as formal-ly amended is in order.

2. The draft statement at pages 61-63 ante as slightly amended is in order.

Id/- N.E.D.
dt/-

Remembrancer of Legal Affairs.

U.R. to G.D. No. 508 , dated the 18th January 1945.

VVK• 12/7/56

5C.

No.1624

Legal Department,
Bombay Castle, 28th February 1945.

From

P.N.MOOS, Esquire, Bar-at-Law, I.C.S.
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay
Village Panchayats Act, 1933.

Sir,

With reference to your memorandum No. 201(95) dated the 17th October 1944,, addressed to the General Department on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bill to amend the Bombay Village Panchayats Act, 1933, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935 .

2. The subject matter of the Bill falls under entries 13 and 54 in List II in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not relate to any matter in the Concurrent Legislative List , it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935 , and paragraph (2) of the Proclamation.

4. I also forward herewith one spare copy of the Bill .

Your obedient servant,

Id/- P.N.M.
dt/- 28/2/45/Secretary to Government of Bombay
Legal Department,ThroughThe Secretary to the Government of Bombay,
General Department.

V.V.K. 12/7/56/

50.

No. 201(93)
Office of the Governor's Secretary
Government, House,

From

D. Symington, Esquire, CIE. ICS.
Secretary to the Governor of Bombay,

To

to Government.
The Secretary, ~~Esquire, CIE. ICS.~~
Legal Department, Bombay.
10th March 1945.

Subject:- A Bill to amend the Bombay Village
Panchayats Act, 1933.

Sir,

With reference to your letter No. 2624, dated the 28th February 1945, I am directed to return herewith the copy of the Bill to amend the Bombay Village Panchayats Act, 1933, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your obedient Servant,

Sd/-

Secretary to the Governor of Bombay.

V.V.K. 12/7/56/

Acts.

Publication of the Bombay Village
Panchayats (Amendment) Act, 1945.

GOVERNMENT OF BOMBAY

Legal Department,

Resolution No. 2047 ,

Bombay Castle, 14th March 1945.

Letter to the Secretary to the Governor, No. 1624, dated
the 28th February 1945.

Letter from the Secretary to the Governor, No. 201(93)
dated the 10th March 1945.

"With reference to your letter No. 1624, dated the 28th
February 1945, I am directed to return herewith the copy of
the Bill to amend the Bombay Village Panchayats Act, 1933,
prepared by His Excellency the Governor under paragraph (2)
of the Proclamation, dated the 4th November 1939, issued
by him under section 93 of the Government of India Act, 1935 ,
and to state that under the provisions of the aforesaid
paragraph, His Excellency the Governor is pleased to declare
that he assents to the Bill in the name of His Majesty."

RESOLUTION: The law should be published as Bombay
Act No. II of 1945, in the Bombay Government Gazette dated
the 15th March 1945.

2. The Act should be translated into Marathi, Gujarati,
Kannada and Hindustani (in Urdu and Devanagari scripts) and
the translations should be published in the Bombay Government
Gazette.

3. A copy of the Act should be forwarded to the General
Department.

By order of the Governor of Bombay,

Id/- K.M.Chitnis .

For (P.N.Moos.
(Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a
copy of the Act and with a request that 15 Gazette

etc

VVK.12/7/

copies of the Act may be forwarded to the Legal Department



The Bombay Government Gazette

PUBLISHED BY AUTHORITY

THURSDAY, 15TH MARCH 1945.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

	Page
BOMBAY ACT No. II OF 1945—An Act to amend the Bombay Village Panchayats Act, 1933	20-23

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 8th March 1945 is hereby published for general information.

P. N. MOOS,

Secretary to the Government of Bombay,
Legal Department

BOMBAY ACT No. II OF 1945.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 15th March 1945.)

An Act to amend the Bombay Village Panchayats Act, 1933.

Bom. VI
of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing ;

26 Geo. 5,
Ch. 2

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. This Act may be called the Bombay - Village Panchayats (Amendment) Act, 1945.

Amendment
of section 6
of Bom. VI
of 1933.

2. In section 6 of the Bombay Village Panchayats Act, 1933, hereinafter called "the said Act",—

Bom. VI
of 1933.

(1) in sub-section (1) after the words "consist of" the following shall be inserted, namely:—

"(i) the officiating revenue patel in the village and if there be more than one officiating revenue patel in the village, the senior officiating revenue patel in the village;

(ii) the officiating police patel in the village and if there be more than one officiating police patel in the village, the senior officiating police patel in the village; and

(iii)

(2) after sub-section (1) the following new sub-section shall be inserted, namely:—

"(1A) The decision of the Collector as to who is the senior officiating revenue or police patel shall be final."

(3) in sub-section (3), for the words and figure "in the *Official Gazette* under section 7" the words "in the prescribed manner by the Collector" shall be substituted.

Amendment
of section 7
of Bom. VI
of 1933.

3. In sub-section (2) of section 7 of the said Act, the words "and the names of members elected shall be published by the Collector in the *Official Gazette*" shall be deleted.

Amendment
of section 8
of Bom. VI
of 1933.

4. In section 8 of the said Act, the existing Explanation shall be numbered as Explanation 1 and after Explanation 1 so numbered, the following new Explanation shall be inserted, namely:—

"*Explanation 2.*—For the purposes of clause (j) of this section, an officiating revenue or police patel or an inferior village servant shall not be deemed to be a servant of the Crown."

Amendment
of section 89
of Bom. VI
of 1933.

5. In section 89 of the said Act,—

(i) in sub-section (1) after the word "rates" the words "and subject to such exemptions" shall be inserted; and

(ii) in sub-section (2) after the word "manner" the words "and subject to such exemptions" shall be inserted.

Amendment
of section 91
of Bom. VI
of 1933.

6. After sub-section (2) of section 91 of the said Act, the following new sub-section shall be inserted, namely:—

"(2A) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be effected by an officer or

servant of the panchayat, or other person authorised by the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the village, or by giving or tendering the bill or writ to some adult male member or servant of his family; or

(c) if such person does not reside within the limits of the village, and his address elsewhere is known to the sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(d) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates."

7. In clause (m) of sub-section (1) of section 108 of the said Act, after the word "which" the words "and the exemptions subject to which" shall be inserted. Amendment of section 108 of Bom. VI of 1933.

8. In sub-section (5) of section 112 of the said Act, the words and figure "other than the powers under section 4" shall be deleted. Amendment of section 112 of Bom. VI of 1933.

STATEMENT.

The objects of the Act are explained in the following notes on clauses :—

Notes on Clauses.

Sub-clauses (1) and (2) of clause 2.—It is proposed to amend section 6 of the Bombay Village Panchayats Act, 1933, to provide that the revenue and police patels should be *ex-officio* members of village panchayats. The revenue and police patels can do much to advance local institutions in rural areas and it is in the interest of local bodies that they should participate in their administration. In the case of local boards they are permitted to stand for election and become members of the board. The participation of patels in the administration of panchayats is even more essential than in the case of local boards. It is, therefore, proposed to include them in the village panchayats as *ex-officio* members as it is considered undesirable that they should be allowed to contest elections.

Clauses 2 (3) and 3.—Opportunity has been taken to amend sections 6 (3) and 7 (2) of the Act to dispense with the publication of the names of the elected members of village panchayats in the *Official Gazette*. This is of local interest only and publication at the village chavdi or at the panchayat office as may be prescribed under the Bombay Village Panchayats Election Rules will be sufficient.

Clause 4.—Clause (j) of section 8 of the Act as it stands at present does not implement correctly the intention of the legislature that inferior village servants should not be treated as servants of the Crown within the meaning

of that clause. Since revenue and police patels are now to be *ex-officio* members of panchayats, it is proposed to provide that revenue or police patels or inferior village servants shall not be deemed to be servants of the Crown within the meaning of section 8 (j).

Clauses 5 and 7.—Under section 89 (1) of the Act as it stands at present the levy of a house tax by panchayats on all houses and lands which are not subject to payment of agricultural assessment within the limits of the villages for which they are constituted is compulsory. There is no provision in the Act under which any reasonable exemption from such a tax can be granted. It has been represented to Government that such exemption is necessary in the case of (1) buildings belonging to Government, local boards and panchayats and used solely for public purposes, (2) buildings used for religious, educational or charitable purposes, and (3) buildings of a capital value of less than Rs. 100 or an annual letting value of Rs. 5 or less. It is desirable to exempt buildings used for religious, educational or charitable purposes from the levy of the house tax as such a tax is likely to cause widespread dissatisfaction and prejudice the main purpose of the Act, namely, to foster the peaceful development of representative government in the smaller units of local self-government. Similarly it is desirable to exempt from the house tax buildings belonging to Government, local boards and panchayats and used solely for public purposes and those of a capital value of less than Rs. 100 or an annual letting value of Rs. 5 or less. After weighing the serious disadvantages of levying the house tax without providing for necessary and reasonable exemptions and the difficulty of collection and maintaining a standard of adequacy in collection of the tax by panchayats, Government has decided to amend the Act so as to provide for exemption from the levy of the tax by village panchayats upon the owners or occupiers of houses and lands under sub-section (1) of section 89 of the Act. It has also been decided to amend the Act for the purpose of granting necessary exemptions from the levy of the other taxes or fees mentioned in sub-section (2) of section 89.

Clause 6.—Under section 91 (1) of the Act when any tax or fee has become due, a panchayat is required to cause to be presented to the person liable for the payment thereof, a bill for the amount due from him. There is, however, no provision in the Act prescribing the modes for the presentation of the bill and difficulty is experienced by the panchayats when a tax-payer refuses to accept a bill presented to him. Similarly there is no provision for the service of a writ of demand under sub-section (2) of section 91. It is, therefore, proposed to amend section 91 of the Act so as to provide for the effective presentation of bills and writs of demand on the lines of section 154 (1) of the Bombay District Municipal Act, 1901.

Clause 8.—Under section 4 of the Act as it stood previous to the amendment in 1939, the Collector exercised certain powers. But in view of the amendment of that section in 1939 these powers no longer survive. Consequently the words and figure "other than the powers under section 4" in sub-section (5) of section 112 are now redundant.